

# Devil's Handbook

2011 / 2012

Ninth Edition



Faculty of Advocates

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# **The Devil's Handbook 2011/2012**

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## **Introduction**

The Faculty of Advocates is committed to making sure that those who are admitted to the Faculty are of the highest quality, in terms of education, training and experience. Devilling is the final stage of qualifying to become a practising Advocate. During this period you will undertake practical training supervised by an experienced member of the Faculty of Advocates; you will devil to a devilmaster. On satisfactory completion of devilling and the compulsory education courses you will be entitled to seek admission to the public office of Advocate.

The purpose of this handbook is to provide guidance, promote good practice and to achieve greater consistency between devilling experiences by providing a central source of information and advice for all those becoming devils in 2011.

In the event of any discrepancy arising between the guidance contained in this handbook and the Regulations as to Intrants ('the Regulations'), the terms of the Regulations hold precedence. The Regulations are available from the Dean's Secretariat, the Faculty website or on the Faculty intranet.

In addition to devils coming to the Faculty with Scottish professional qualifications, a number of lawyers qualified in certain other jurisdictions re-qualify as advocates. In terms of the Regulations some of these are not required to undertake devilling, but have agreed to do so. Whilst the parts of this handbook dealing with assessment do not apply to these devils, the remainder should prove useful to them.

Section 1 is concerned with the framework of devilling, including the regulatory framework; discipline; devilmasters; the training and education programme; and the scheme for assessment of devils.

Section 2 sets out: the duties of devils; the duties of devilmasters; the Clerk of Faculty; and the role of others in the devilling process.

Section 3 contains information about what to expect while devilling, including: you and your devilmaster; the working environment; how to get the most out of devilling; and keeping records of work.

Section 4 contains advice on handling problems in devilling and complaints procedures.

Section 5 is concerned with financial and administrative matters.

Appendices contain details of useful contacts, guidance as to Devilmasters' general obligations and functions, monitoring progress during devilling and obtaining feedback, a provisional training calendar for 2011 / 2012, the scheme for assessment practice and criteria, copies of the Devil's Checklist and Devilmasters' Reports, some work templates, and the IT specification.

We welcome any comments or suggestions you have regarding content or layout. Please address any correspondence to the Clerk of Faculty.

Further copies of The Devils' Handbook are available from the Clerk of Faculty, the Faculty web-site and the Faculty intranet.

Those wishing further details of the Faculty exams should contact the Clerk to the Examiners or the Dean's Secretariat whose details are provided in Appendix 1.

The Faculty Office should be able to provide devils, on request, with copies of up-to-date information relating to:-

The Regulations as to Intrants;

Guide to the Professional Conduct of Advocates;

Direct Access to the Faculty of Advocates;

Disciplinary Rules of the Faculty of Advocates;

The Faculty of Advocates Continuing Professional Development Regulations;

Scheme for Accounting For and Recovery of Counsel's Fees; and

The Faculty of Advocates Equality and Diversity Code

Materials for courses will be distributed separately to devils as and when required.



The Faculty of Advocates,

Edinburgh

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# **1 Framework of Devilling**

## **1.1 The Regulatory Framework of Devilling**

The Regulations as to Intrants require that a person (other than certain lawyers qualified in other jurisdictions) who intends to become an advocate must satisfy the Dean of Faculty that he or she has satisfactorily completed:

- a) full-time devilling to a junior member of Faculty practising before the Court of Session and
- b) the compulsory training and education provided by the Faculty (which currently includes the Training and Education Programme and assessment by the Board of Assessors).

Devilling lasts from the commencement of the Foundation Course to the date of the intrant's admission to Faculty. Other than in exceptional circumstances, a devil will require to satisfactorily complete devilling, and the training and education programme and assessment, within that time.

The Dean of Faculty may grant exemptions to all or part of these requirements.

## **1.2 Discipline**

Devils are subject, in matters affecting conduct as an Intrant and admission to Faculty, to the discipline of the Dean. If you conduct yourself in such a manner as to render you unfitted to the exercise the public office of advocate the Dean may, after undertaking the appropriate procedures including consultation with his Council, the Lord President and the Lord Justice Clerk, order that your name be removed from the Roll of Intrants. For further information, see Regulation 14 of the Regulations as to Intrants.

For example, any issues relating to the conduct of a devil in relation to examinations or the Scheme for Assessment for Devils will be taken very seriously by the Faculty and may lead to the devil being required to discontinue devilling and the removal of his or her name from the Roll of Intrants.

## **1.3 Devilmasters**

You will have a principal devilmaster.

You will have a criminal devilmaster.

All devilmasters must be approved by the Dean of Faculty.

During the devilling period you will spend at least four and no more than six weeks with a criminal devilmaster, an advocate who specialises in criminal law. At least four weeks of criminal devilling must be spent with a devilmaster who is engaged primarily in first instance criminal work. On application, and after consulting with the Director of Training & Education, the Clerk of Faculty has a discretion to waive the requirement that at least four weeks of criminal devilling must be spent with a devilmaster who is engaged primarily in first instance criminal work.

In addition to that period spent devilling in criminal law you and your principal devilmaster may, in consultation with the Clerk of Faculty, arrange that you spend a period with another advocate (a 'subsidiary devilmaster') to gain experience in a particular area not covered in the devilling period spent with your principal devilmaster.

Notwithstanding the period spent devilling in criminal law, or with a subsidiary devilmaster, your principal devilmaster remains principal devilmaster.

#### **1.4 Selection of a devilmaster**

The selection of a devilmaster is a matter for the individual inrant. When selecting a devilmaster an inrant may want to consider the underlying purpose is to give training in a broad range of Court of Session and High Court of Justiciary practice.

Intrants should discuss any proposed devilling arrangement or potential devilling arrangement with the Clerk of Faculty. The Clerk of Faculty is available to give guidance to intrants on the process of selecting a devilmaster. The Clerk of Faculty maintains a list of approved devilmasters which is available for consultation.

A devilmaster is automatically removed from the list if he or she becomes a QC or for the time he or she is a full-time Advocate Depute. A devilmaster may be removed from the list at the Dean's discretion.

You should have arrangements in place for your principal devilmaster and criminal devilmaster well in advance of the Foundation Course. You should inform the Clerk of Faculty in writing of your proposed devilmasters four weeks before the commencement of the Foundation Course. In the event that you do not have proposed arrangements for your devilmasters at that time, you should speak to the Clerk of Faculty.

### **1.5 Registration of devilling**

Before any period of devilling may begin it must be registered with the Clerk of Faculty. For the avoidance of doubt, this includes not only devilling to your principal devilmaster but also the periods spent devilling to your criminal devilmaster and any subsidiary devilmasters. Any period of time spent 'devilling' that is not in accordance with your registered details will not count towards your devilling period.

### **1.6 Training and Education Programme**

You will undertake the following compulsory training and education in addition to the working time spent with principal and other devilmasters:-

- a) the Foundation Course;
- b) the February Skills course;
- c) the May 'Preparation for Practice Course';
- d) such further courses, workshops and seminars as may be organised by the Training & Education Department; and
- e) 10 hours Continuing Professional Development.

The Foundation Course (which runs in September-November) generally lasts five weeks, the February Skills Course lasts two weeks and the May Preparation for Practice Course lasts two weeks. A provisional training calendar can be found at Appendix 4.

You must complete 10 hours of accredited Continuing Professional Development (CPD) prior to admission to Faculty.

## 1.7 Scheme for Assessment of Devils

The Training and Education Programme includes the requirement that you should satisfactorily complete the Scheme for Assessment of Devils. Currently the scheme has the following requirements.

The Scheme for Assessment of Devils requires a devil to demonstrate competence in advocacy in each of four key skills:

- a) examination of a witness,
- b) legal submissions (for example a debate or motion),
- c) drafting a writ (for example, a summons or petition) and
- d) drafting an opinion.

By 'competence' is meant the standard to be expected of the 'reasonably competent newly admitted advocate'. It is assessed by reference to the assessment criteria for each key skill set out in Appendix 5.

The Scheme is not a test of skills taught on the Training and Education Programme. While skills acquired from the programme may assist devils to successfully demonstrate competence under the Scheme, they should also expect to have to draw on skills learnt through working with their devilmasters, or otherwise.

### 1.7.1 The Assessment Procedure

A Faculty committee, the Board of Assessors, is the body charged by the Dean with oversight of the Scheme for Assessment of Devils. The Director of Training and Education is a member of the Board *ex officio*. The Director does not participate in any decisions which the Board may take about the competency or otherwise of the devils. The actual assessments are carried out by senior members of Faculty (the Assessors) who report to the Board. In the light of these assessments the Board must advise the Clerk of Faculty whether each devil is competent or not competent in terms of the Scheme.

Operation of the Scheme is supervised by an external advisor who is a member of the judiciary. The role of the external advisor is to ensure that assessment is carried out fairly

and to the correct standard, and does not (except as provided for in paragraph 10.6 of the Scheme for Assessment - see Appendix 5) include assessment of a particular devil's competence.

All devils are assessed at a diet in February of each year. If a devil is assessed at that diet as 'working towards competence' in any of the four key skills, he or she will require to be reassessed in relation to that skill (or skills) at a further diet in May.

Any devil assessed as 'working towards competence' in any one or more assessment exercises at the February diet of assessment is required to meet with the Director of Training and Education within a reasonable time after the intimation of the results of the February diet to discuss what action, if any, requires to be taken to assist that devil in the preparation for the May diet of assessment.

Any devil who is required to attend for re-assessment at the May diet will not be permitted to call at the June calling, if they would otherwise have been able to do so. Devils assessed as competent at the May diet will (as far as the Assessment Scheme is concerned) be permitted to call in July of that year.

If a devil, on reassessment at the May diet, is graded by the Assessors as 'not competent' in any of the four key skills, *prima facie* the Board would anticipate reporting to the Clerk of Faculty that that devil has been found 'not competent' in terms of the Scheme. The Board operates a review procedure, however, a copy of which is set out in Appendix 5.

If, following this procedure, the Board is of the view that any devil is not competent overall, or in other words, that in any of the four skills areas he or she has not attained the standard to be expected of the reasonably competent newly called advocate, then it will make a report to the Clerk of Faculty to this effect.

Devils assessed as 'not competent' will not be admitted to Faculty.

## **2 Introduction to Devilling**

### **2.1 The Duties of Devils**

#### **2.1.1 Conduct**

You shall be conscientious and apply yourself full time to devilling.

You shall follow, where relevant, the Faculty Guide to the Professional Conduct of Advocates.

You shall have regard to the Faculty Equality and Diversity Code.

You shall comply with any rules or guidelines relating to devilling issued by the Faculty.

You shall preserve the confidentiality of every client's affairs, including the clients of any advocate with whom you work.

You shall comply with any direction from the Dean and other Faculty office bearers.

You shall keep the Dean's Secretariat notified of your contact details during the whole of your deviling period.

While devilling you shall not hold yourself out as an advocate. For example, you cannot: describe yourself as an advocate, including to any agent, client or prospective agent or client; describe yourself as an advocate on any written or printed material, advertising, publicity or notice; wear a wig and gown.

#### **2.1.2 Attendance at Compulsory Training and Education**

You must attend all the courses on the Training and Education Programme.

Devils who have not prepared appropriately for such courses or who do not commit themselves to participating in a reasonably cooperative and appropriate manner in the seminars, workshops and exercises will be regarded as not having attended.

If your conduct on a course is unacceptable or unsatisfactory, in any aspect, the Director of Training may inform your principal devilmaster and the Clerk of Faculty.

Your devilmaster should encourage you where possible and should identify where extra support is needed. Any improvement in those areas identified as being weak on any course will be taken into account when considering your devilmaster's report.

### 2.1.3 Work Diary, Checklist and Book of Styles

Devils are required to keep:

- a) an up to date work diary;
- b) checklist of the topics covered during your devilling period and;
- c) book of styles.

Your work diary and checklist will be kept electronically on the Faculty Intranet.

You must maintain the checklist based on the style of the Devilmasters' Report which is in Appendix 7.

Your work diary and your checklist may be monitored from time to time by the Clerk of Faculty or the Director of Training & Education. As a consequence, your work diary and checklist should be compiled in such terms that the contents can be reviewed by the Clerk of Faculty and the Director of Training & Education without any breach of your devilmaster's obligation of client confidentiality.

Your work diary is a record of the work you have done and will help you complete the checklist of topics covered during devilling. It will assist your principal devilmaster certify the satisfactory completion of your devilling.

It is your responsibility to make sure that you cover all of the relevant topics and an accurate record of what you did, where, when and with whom is kept.

Some templates for maintaining records of work are also included in Appendix 8.

It is recommended that you keep and develop a database or book of styles during the course of devilling so that you can deal with a variety of different types of work (both civil and criminal) if called upon to do so at short notice.



#### 2.1.4 Interim Devilmaster's Reports

Your Principal Devilmaster will be asked to submit an interim report on the progress of your devilling at the start of both the spring term and the summer term to the Clerk of Faculty. This should enable potential problems to be identified in time for them to be addressed

The style of the Interim Devilmasters' Report is in Appendix 7.

#### 2.1.5 Devilmasters' Report

Before you can be admitted to the Faculty your principal devilmaster must provide a Devilmasters' Report declaring that:

- a) you have satisfactorily covered sufficient topics during your devilling period;
- b) you have displayed sufficient diligence, competence and trustworthiness during your devilling period to make you suitable to be admitted as a member of Faculty; and
- c) nothing has come to light during the period of devilling which would indicate to your principal devilmaster that you are not an appropriate person to be admitted to the Faculty.

The style of the Devilmasters' Report is in Appendix 7.

In the event that your principal devilmaster does not provide such a report, your suitability for admission to the Faculty shall be referred to a Review Committee who shall report to the Dean. You shall not be deemed to have duly completed a full period of devilling unless the report from the Review Committee is in favourable terms.

### 2.2 The Duties of Devilmasters

Advocates may not take on a devil and act as a principal devilmaster unless:

- a) they have the consent of the Dean and are entered on the register of approved devilmasters maintained by the Clerk of Faculty; and
- b) practice is and has been their primary occupation for the last seven years.

A devilmaster may only supervise one devil at a time.

2.2.1 It is the principal devilmaster's responsibility to report to the Clerk of Faculty fully and accurately upon the devil's performance and to provide:

- a) the Interim Devilmaster's Reports as prescribed; and
- b) the completed Devilmasters' Report at the end of the devilling period.

The Clerk of Faculty will issue guidance for devilmasters from time to time.

Current guidance as to devilmasters' general obligations and functions can be found at Appendix 2.

### **2.3 The Clerk of Faculty**

The Clerk of Faculty shall take reasonable steps to make sure that proper arrangements are made for dealing with devils and devilling and that matters are conducted in a manner which is fair and equitable for all advocates and devils.

The Clerk of Faculty has the authority of the Dean to move a devil from a particular devilmaster if it is apparent that there is a problem affecting the devil's progress.

### **2.4 The Roles of Others**

#### **2.4.1 The Dean of Faculty**

**The decision of the Dean of Faculty on matters relating to devilling shall be final.**

#### **2.4.2 The Director of Training and Education**

The Director of Training & Education shall make arrangements for the running of the Foundation Course, February Skills Course, the May Preparation for Practice Course and such further courses, workshops and seminars as may be appropriate. He shall also make arrangements for the administration of CPD for devils.

#### **2.4.3. The Training and Admissions Committee**

The Training and Admissions Committee shall oversee the provision of training and education by the Training & Education Department and provide guidance to devilmasters

and assist the Clerk of Faculty in the development of Faculty policy on matters of training and education generally.

#### 2.4.4 The Board of Assessors

The Board of Assessors shall operate and oversee the assessment process. It shall report to the Clerk of Faculty on the outcome of the assessment process. It shall invite the supervising judge to review and comment upon the assessment process.

#### 2.4.5 The Faculty Office Bearers

In addition to the Dean and the Clerk; the Vice Dean, the Treasurer, the Keeper of the Library and the Chairman of the Company all have specific responsibilities in the management of the Faculty's affairs. They are also available to give advice to devils as well as to Members of Faculty when faced with a professional difficulty.

### **3 What to Expect While Devilling**

#### **3.1 You and Your Devilmaster**

After the Foundation Course, your period of devilling with your principal devilmaster will begin.

In the first few days your devilmaster should talk to you about practice and devilling generally. It is useful for you to know about the nature of work dealt with by your devilmaster, the type of work that you will be involved in, the monitoring of and feedback about your work and the role of other individuals in devilling.

It is important that at an early stage in devilling you obtain as much information as possible about what is expected of you as a devil and as a future member of Faculty.

In general you should be aware of the following:

##### **3.1.1 Full Time**

Devilling must be undertaken full-time. Although you are required to apply yourself full time to devilling, you may take on external part time work that, in the opinion of the Clerk of Faculty, and your Principal Devilmaster, does not materially interfere with your devilling.

You must obtain the written permission from the Clerk of Faculty before carrying out any paid or voluntary work.

##### **3.1.2 Hours of work**

Your devilmaster will usually specify the minimum periods of time in which you are expected to be in Parliament House or otherwise engaged with your devilmaster. You are expected to work additional hours as required.

You will normally attend at Parliament House from 09.30-17.00 hours each week-day during term-time – unless you are:

- a) with, or under the direction of, your devilmaster away from Parliament House
- b) engaged in work for the Free Representation Unit; or

c) have the permission of the Clerk of Faculty.

### 3.1.3 Dress Code

When in Parliament House, or with your devilmaster, you will wear dark business clothing appropriate for attendance at court, even if you will not be attending court that day.

### 3.1.4 Illness

You should keep your devilmaster informed of any absence due to illness. If you are absent for more than a week due to illness you should inform the Clerk of Faculty.

### 3.1.5 Holidays

You are entitled to two weeks holiday during the Easter vacation, at a time to be agreed with your principal devilmaster. You are expected to be at work during the remaining two weeks.

### 3.1.6 Working Areas

There are working areas set aside for the use of devils in the Advocates Library. Devils may work in the main library in the evenings and at weekends.

### 3.1.7 Library and Research Facilities

Devils are entitled to use the Advocates Library and its research facilities to assist with all activities of devilling. You should familiarise yourself with the location of the various parts of the collection and the electronic research resources available. Use of the Library is subject to the Library Rules - the rules are available on the Faculty intranet.

### 3.1.8 Telephone, Photocopying, Printing and Post

Telephone, photocopying, printing and post facilities are provided in the Advocates Library and Advocates' Clerks area by Faculty Services Limited (FSL). You will be provided with a PIN to operate these, the cost of services will be charged to your FSL account. Your devilmaster may allow you to use his or her code on his or her instructions.

### 3.1.9 Contact

Your devilmaster must be able to contact you at short notice. You should tell your devilmaster where you are and what you are doing. You should ensure your devilmaster has your mobile phone number and contact details.

## 3.2 The Working Environment

### 3.2.1 Parliament House

You are expected to spend as much time as possible observing in court. You should check to see if there are any cases of particular interest in court. You are strongly encouraged to sit in court to listen to cases of interest or importance, whether or not your devilmaster is appearing in the case.

### 3.2.2 Advocates' Clerks

At the start of devilling you should make sure you are introduced to your devilmaster's clerk and assistant clerks.

You should find out how the advocates' clerks operate. Clerks and assistant clerks have a variety of qualifications and experience – and have significant responsibilities. The role and function of the clerks can vary slightly from stable to stable and include:

- a) keeping counsel's diaries
- b) liaising with courts
- c) liaising with solicitors
- d) fixing and helping to recover fees
- e) promoting and developing the profession
- f) liaising with other stables in relation to returned work and cases where counsel from more than one stable are involved.

You should check with your devilmaster and his or her clerk that you have permission to consult your devilmaster's diary from time to time – to see what is meant to be happening, where and when.

In case your devilmaster needs to get in touch with you, you may want to keep your devilmaster's clerk informed of your movements. The clerks should be provided with your contact details in case they need to get in touch with you outside office hours.

You should find out how the Faculty Services Limited Fee Rendering System works.

### **3.3 How to Get the Most Out of Devilling**

The work that you will see and do during devilling will vary according to the individual practice of your devilmasters.

However, you should make sure that you obtain:

- a) an understanding and appreciation of the operation, in practice, of the rules of conduct and etiquette at the Bar;
- b) sufficient practical experience to be able to prepare and present civil and criminal cases competently;
- c) sufficient practical experience of consultations and negotiations to be able to undertake them competently; and
- d) sufficient practical experience in the undertaking of legal research and the preparation of civil and criminal pleadings and opinions to be able to undertake them competently.

#### **3.3.1 Conduct and Etiquette**

Your devilling must involve training in professional conduct and etiquette.

You must be familiar with the current Guide to the Professional Conduct of Advocates copies of which can be obtained from the Clerk of Faculty, the Faculty website and the Faculty intranet.

Your devilmaster should explain the practicalities of etiquette in the Faculty and the Supreme Courts - much of which is applied common sense.

If you do experience problems with any of these issues, you should, wherever possible, consult with your devilmaster - whom failing a Faculty office bearer or a senior member of Faculty.

### 3.3.2 Paperwork

You will have the 'run of your devilmaster's papers'. You are expected to read your devilmaster's opinions and draft pleadings and to discuss these with him or her. Where possible, you should keep copies of the work in order to build up your style book. Practice in drafting pleadings and writing opinions is an important part of devilling. You should discuss with your devilmaster the written work done and obtain regular feedback on progress. The accuracy and speed of work are important factors to concentrate on.

### 3.3.3 Consultations

You should read the papers before every consultation so that you can gain the most from the experience.

You should be informed in advance what is expected of you in the consultation. It is not normally expected that a devil should contribute during a consultation. If your devilmaster wishes you to contribute during a consultation that should be made clear in advance. Any questions arising during the consultation relating to devilling should be discussed after the conclusion of the consultation.

### 3.3.4 Court Work

You should see as much of your devilmaster's court work as possible.

You should check to know which court is to be attended – and where it is. If your devilmaster's practice involves extensive travelling try to establish early on whether or not you are expected to attend all such cases and, if so, whether your devilmaster will meet your travelling expenses. It may well be that, on days when your devilmaster is working some distance away, he or she will arrange for you to work in Parliament House.

You should arrive in good time.

You will gain most benefit from observing court work if you are able to read the papers and discuss them before or after the court appearance. It may be useful to prepare your own



skeleton submission or to draft questions that you would ask. It is very important to keep a clear and detailed note of proceedings in court.

When you attend court with your devilmaster you must not offer an opinion regarding the case to the client or agent. Any views or questions you have should be discussed with your devilmaster alone.

When your devilmaster becomes involved in negotiations with his or her opponents it is expected that you accompany him or her and watch, without interrupting or intruding.

It is particularly important you see court work done by a variety of junior members of Faculty in order to prepare you for your own court appearances after admission.

You will have many opportunities to practice your own advocacy skills during the training courses.

You should note however that you are not permitted to supply legal services as an advocate or exercise any rights of audience while devilling.

### 3.3.5 Training and Education

You will not be entitled to become a member of Faculty and commence practice until you have satisfactorily completed the Training and Education Programme organised by the Training & Education Department.

This includes:

- a) the Foundation Course;
- b) the February Skills Course;
- c) the May Preparation for Practice Course;
- d) such other courses, workshops and seminars as may be arranged; and
- e) 10 hours CPD.

The Director of Training and Education will notify you about the Training and Education Programme and the dates on which you are expected to attend. All devils must attend these training courses. A provisional training calendar for 2011 / 2012 is outlined at Appendix 4.

Any permitted part-time work that is undertaken must be arranged so that it does not interfere with the skills courses run for devils. It should be noted that some sessions in these courses run into the evening and on weekends. Permission to attend external work during skills courses will not be granted; except in exceptional circumstances.

The Clerk of Faculty after consulting the Director of Training and Education may in exceptional circumstances and on cause shown grant a short leave of absence from the Training and Education Programme on such terms and conditions as will allow the training to be completed at a later date.

You should keep the Director of Training and Education informed of any absence during a skills course due to illness. If you are absent for more than three consecutive days due to illness you should inform the Clerk of Faculty and produce a medical certificate relating to the absence on request.

The Director of Training and Education determines whether a devil has attended the training courses satisfactorily within the meaning of paragraph 2.1.2.

If the Director of Training and Education deems that a devil has not attended the Training and Education Programme satisfactorily and the devil disagrees with the Director of Training's view; the Dean of Faculty will decide in terms of Regulation 4 (b).

### 3.3.6 Continuing Professional Development

You will not be entitled to become a member of Faculty and commence practice until you have satisfactorily completed the required CPD.

All devils must have completed 10 hours CPD by the date of their admission.

Accredited courses are offered by the Training & Education Department, the Faculty's specialist groups, stables and a range of external providers. There is an on-line courses database on the Faculty of Advocates intranet which lists the events available. An

information pack containing full details of the CPD scheme will be issued to devils by the Training & Education Department at the commencement of devilling with the devilmaster.

Of the 10 hours CPD required of a devil at least 5 hours must be CPD provided by the Training and Education Department, Faculty, a Faculty specialist group or a stable. Of these 5 hours, 1 must be completed by attendance at Library Skills Training courses e.g., Catalogue Training, Researching EU Law. No more than 5 hours shall be provided by an accredited external provider.

If you are admitted to the Faculty before 1 July then you must complete 10 further hours of CPD as a practising member by the end of the year. If, however, you are admitted to the Faculty after 1 July then you must complete 5 further hours of CPD as a practising member by the end of that year.

### 3.3.7 Free Representation Unit

You will participate in the Faculty's Free Representation Unit Scheme.

The Scheme is an agreement between the Faculty and Citizens Advice Scotland, whereby devils and newly-admitted advocates (for a period of 5-6 months following admission) perform legal services for Citizens Advice Bureaux. The services include advice and representation before tribunals where Legal Aid is not available. The scheme does not extend to hearings before any court.

Instructions are sent in the first instance to the Clerk of Faculty. The Clerk arranges for a devil/newly-admitted advocate to take the instructions. Instructions are accepted on the same basis as instructions from solicitors to counsel. The representative from the Citizens Advice Bureau takes on the role normally played by the instructing solicitor. Once the instructions are accepted by the devil/newly-admitted advocate, the Dean of Faculty regards it as a binding professional commitment equivalent to acceptance of instructions by a practising member of Faculty.

The provision of such services is free. Reasonable expenses in the carrying out of such services will be met by the Faculty. Devils/newly-admitted advocates who accept instructions are covered by the insurance policy that Citizens Advice Scotland have in place.

While devilling, you shall not, in connection with the supply of such services, hold yourself out as an advocate. Please refer to paragraph 2.1.1

If you encounter any difficulties in the operation of the Scheme, you should in the first instance, contact the Clerk of Faculty.

### **3.4 Keeping Records of Work**

You are required to keep:

- a) work diary;
- b) checklist of the topics covered during your devilling period; and
- c) book of styles.

#### **3.4.1 Work Diary**

You are required to keep a work diary during devilling to record the work that has been done and the amount of time spent on it. It is helpful to record feedback from your devilmaster and your own reflections on items of work or skills training exercise. A full and accurate work diary will let you see how you are improving, help you direct your devilling and identify areas where you may require more practice or guidance.

Appendix 8 contains some templates that may be of use.

#### **3.4.2 Checklist of Work Done**

In Appendix 6 there is a devil's checklist of items that must be covered in the devilling period. It mirrors the topics listed in the Devilmaster's Report. Both are designed to ensure that you and your devilmaster cover all the important topics.

The Devilmaster's Report is the crucial document; the devil's checklist can be used to help plan devilling, to check that you are experiencing an adequate range of work and to review your progress.

It is essential that you work with your devilmaster and establish how the checklist can be used most effectively to plan and monitor your progress during devilling.

When spending a period of devilling with a criminal or subsidiary devilmaster the checklists should be used review progress and ensure any important topics are covered.

It is not expected that you will be able to cover all items of a specialist nature but you are expected to cover a good range of topics from both civil and criminal practice.

The Clerk of Faculty can give guidance - to devils and devilmasters - as to how best to approach the devil's checklist and the Devilmasters' Report.

It is suggested that the style which is in Appendix 7 is followed.

### 3.4.3 Book of Styles

You should keep all documents you produce in the course of your devilling. You should get a copy of the work that your devilmaster sent out in relation to a set of instructions that you have also attempted; for the purposes of comparison. The ability to review work side by side with your devilmasters' is a very good way to become self-critical and develop good paperwork skills.

You should develop an efficient filing and reference system to allow you to access styles quickly and easily.

Your principal devilmaster has the right to see your style book at any time during the devilling period. You should bear in mind that while it is your responsibility to create and maintain the book of styles your principal devilmaster has to declare that he is satisfied that you have done so in the Devilmaster's Report.

## **4 Handling Problems**

### **4.1 General Advice**

The Faculty of Advocates is committed to making sure that devilling meets the highest standards.

The Faculty wishes to ensure that all devils are treated properly and fairly.

You are encouraged to raise any problems you have. It is anticipated that most issues can be dealt with by your devilmaster, the Clerk of Faculty or the Director of Training, as appropriate.

There is a range of informal and formal procedures for dealing with problems that arise in relation to the quality of devilling.

If you feel there is a problem with your devilmaster e.g. inadequate supervision or feedback, excessive or inappropriate tasks, discrimination, harassment or other serious misconduct you should contact, in the first instance, the Clerk of Faculty.

It is important that accurate notes, of any particular incident or incidents that give rise to a problem, are kept to assist in the resolution of any dispute.

### **4.2 Sources of Advice**

#### **4.2.1 Devilmasters**

It is a primary responsibility of your devilmaster to give you appropriate advice, support and guidance and, if possible, he or she should be approached with any concerns.

#### **4.2.2 The Clerk of Faculty and Office Bearers**

If you cannot, or do not wish to, approach your devilmaster, the Clerk of Faculty should be the first person you contact.

If the Clerk of Faculty is not available an office bearer may also be able to help either informally or formally.

#### 4.2.3 Members of Faculty

If the problem is urgent and the Clerk or a Faculty office bearer cannot be found an approach to a senior member of Faculty should be made.

#### **4.3 Feedback by Devils and Newly Admitted Members**

You are encouraged to be active in seeking to direct and structure your devilling. You should reflect on the devilling process and give constructive criticism, where appropriate.

From time to time the Training and Admissions Committee will, on a confidential basis, invite a sample of devils to complete questionnaires and to participate in interviews about their experiences of devilling.

After admission to Faculty newly admitted members may be invited to complete a confidential questionnaire about their experience of the devilling process. The newly admitted member may be asked to grade or comment on his or devilmasters particularly with reference to the duties highlighted in this Handbook. Any comments may inform the Dean, Clerk or Director of Training and Education of the suitability of a member of Faculty to remain as a devilmaster.

## **5 Finance and Administration**

### **5.1 Funding of devilling**

No charge is made by Faculty for devilling, the training and education programme or assessment.

Devilling is full-time training and you will not be able to take on any significant paid employment. You should also bear in mind paragraph 3.1.1.

### **5.2 Costs**

It is up to you to make sure that your period of devilling can be funded.

You must have a laptop computer of the required specification ready to be used at the beginning of the Foundation Course. The current minimum specification is contained in Appendix 9

### **5.3 Grants, Scholarships and Awards**

The Faculty offers a number of annual scholarships the purpose of which is to provide assistance to devils. Applications are invited by advertisement published in the Scots Law Times and the Journal of the Law Society of Scotland in around March each year. Details may also be obtained from the Faculty website. For further information please contact the Clerk of Faculty.

### **5.4 Career Development Loans**

For information on financial assistance to support learning, visit [www.direct.gov.uk/adultlearning](http://www.direct.gov.uk/adultlearning) or contact Careers Advice 0800 100 900. Further information can also be obtained from the Dean's Secretariat.

### **5.5 Income**

During devilling you are neither entitled to, nor shall you receive, any payment from a devilmaster.



## **5.6 Expenses**

Most devilmasters respect the tradition that the senior person pays for shared meals and incidental expenses.

## **5.7 Insurance**

Once you are admitted to Faculty you must have professional indemnity insurance. The Faculty arranges professional indemnity insurance cover all members. Details will be provided by the Dean's Secretariat (see Appendix 1) prior to admission.

## **5.8 Income Tax, VAT and National Insurance**

While devilling it is worthwhile seeking advice from an accountant in relation to Income Tax, VAT and National Insurance matters. Further details can be obtained from the Inland Revenue or Customs and Excise.

Devils are advised to record expenses accurately; as these may be able to be offset against your taxable income at a later date.

## **5.9 Council Tax**

Devils are not exempt from paying Council Tax, but may be eligible for Council Tax Benefit if they are on a low income and fall within the savings limit.

It might be worth contacting the local Department of Work and Pensions office for further information. The Faculty provides a standard letter which can be used in making an application for a Council Tax discount.

## **5.10 Travel Expenses**

The Faculty provides a standard letter which can be used in making an application for a discounted rail pass.

## **5.11 Computer Software Discount**

Certain computer and software companies offer 'student' discounts on their software packages. The criteria for each company are different and can change from year to year. You

should investigate whether or not discounts are available. The Faculty provides a standard letter which can be used in making an application for 'student' discounts.

### **5.12 Data Protection**

Devils must be registered with the Information Commissioner's Office (ICO) under the Data Protection Act 1998.

**It is a criminal offence not to register if you are required to do so under the Act.**

It is your responsibility to ensure that you are registered under the Act.

You can register on-line via the Office of the Information Commissioner at their website [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk) – or by phoning the notification help line on 01625 545 740.

The cost of notification is currently £35.00 per year.

Each devil should provide a copy of their registration details to the Dean's Secretariat for retention on their personal file. If a devil considers that they do not have to register then they advise should advise the Secretariat in order that an appropriate record may be made.

### **5.13 Disclosure Scotland**

Prior to commencing devilling and to being admitted as a member of Faculty, the Faculty will undertake a standard disclosure check, or if considered appropriate checks, with Disclosure Scotland. The relevant forms will normally be sent to devils in advance of the Induction Evening. Devils are required to complete the relevant parts of the form, to provide the required identification specified (at least 3 forms of identification to confirm name, date of birth and current home address, at least one of which should be photographic, for example a passport or driving licence) and to pay the appropriate charges - currently £25.00 per application.

## 6 Appendices

### Appendix 1: Useful Contacts

Faculty of Advocates  
Advocates Library  
Parliament House  
Edinburgh EH1 1RF  
0131 226 5071  
[www.advocates.org.uk](http://www.advocates.org.uk)

Clerk of Faculty  
Calum Wilson  
[calum.wilson@advocates.org.uk](mailto:calum.wilson@advocates.org.uk)

Director of Training and Education  
John Hamilton  
[john.hamilton@advocates.org.uk](mailto:john.hamilton@advocates.org.uk)

Training & Education Manager  
Rosie Brydon  
[rosie.brydon@advocates.org.uk](mailto:rosie.brydon@advocates.org.uk)

Clerk to the Examiners  
[Clerktotheexaminers@advocates.org.uk](mailto:Clerktotheexaminers@advocates.org.uk)

Clerk to the Training & Admissions Committee  
[kirstyjhood@advocates.org.uk](mailto:kirstyjhood@advocates.org.uk)

Clerk to the Board of Assessors  
Barry Smith  
[barry.smith@compasschambers.com](mailto:barry.smith@compasschambers.com)

Dean's Secretariat  
Tel: 0131 260 5795  
[admissions@advocates.org.uk](mailto:admissions@advocates.org.uk)

Advocates Library  
Tel: 0131-260-5683  
[inqdesk@advocates.org.uk](mailto:inqdesk@advocates.org.uk)

Advocates Clerks  
Tel: 0131 226 2881

IT Department  
0131 260 2820  
[service.desk@advocates.org.uk](mailto:service.desk@advocates.org.uk)

Faculty Reception  
Faculty of Advocates  
Advocates Library  
Parliament House  
Edinburgh EH1 1RF  
0131 260 5601  
[faculty.reception@advocates.org.uk](mailto:faculty.reception@advocates.org.uk)

## **Appendix 2: Guidance as to Devilmasters' General Obligations and Functions**

1. No devilmaster will discriminate against any devil on the grounds of age, race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, religion or political persuasion.
2. Devilmasters should familiarise themselves with the current: Devil's Handbook, The Scheme for Assessment of Devils, format and objectives of the skills training programme.
3. Devilmasters are expected to attend the Devilmaster's Induction Session organised by the Director of Training and Education prior to taking a devil whether as a principal, criminal or subsidiary devilmaster. It is expected that all devilmasters will attend such a course every three years.
4. The devil should be well grounded in the rules of conduct and etiquette at the Bar.
5. The devil should be encouraged to discuss problems and questions relating to practice with the devilmaster as they arise. However, particular attention is drawn to Appendix 5 paragraph 6.
6. Every devilmaster should be aware of the obligation, at the end of each period of devilling, to provide the devil with a certificate relating to the completion of that particular period.
7. It should be noted that it is a principal devilmaster's responsibility to certify whether the devil has completed his or her devilling satisfactorily. This includes time with any subsidiary devilmaster, and accordingly the Principal Devilmaster is responsible for what time is spent with other devilmasters and with whom. Guidance can be sought from the Clerk of Faculty or from the Training and Admissions Committee.
8. In the event that problems arise a devilmaster should inform the Clerk of Faculty as soon as possible.

9. On the first day of devilling after the Foundation Course:

- a. Time should be taken to talk about practice and devilling generally.
- b. Devils should be introduced to other members of Faculty, clerks, and other Faculty and Faculty Services Limited staff, with whom they might be expected to have contact whilst devilling.
- c. There should be an opportunity to discuss what is expected of the devil during devilling, as outlined in section 3.

10. All devils must attend each Faculty training course prescribed for devils. Devils who have not prepared appropriately for such courses or who do not commit themselves to participating in a reasonably cooperative and appropriate manner in the workshops and exercises will be regarded as not having attended. Where a devil's performance is particularly weak in any aspect the principal devilmaster may be informed of the problems with the devil's performance. The devilmaster should encourage the devil where possible and should identify where extra support is needed. A devil's improvement in those areas identified as being weak on any course should be taken into account when considering the devilmaster's report.

11. The principal devilmaster should make sure that the devil is provided with, and retains, an appropriate check list, and completes it conscientiously and accurately.

12. The devil should be required to read the devilmaster's papers and draft pleadings and other documents, including opinions where applicable. The devil should also be required to accompany the devilmaster to court on sufficient occasions so that the devil has the opportunity to see such work and to gain such experience as is appropriate for a person commencing practice in the type of work done by the devilmaster and to enable the devil to complete the check list.

13. Specific and detailed instruction in pleading should be given, in particular, in relation to those pleadings and other documents which form part of the check list. The devil should keep a book (or database) of styles for use in practice.

14. The devil should take every available opportunity to attend court (including the daily motion roll) and observe other cases when not accompanying the devilmaster to court. The devilmaster will encourage the devil to do so and will endeavour to lookout for cases of interest. Attendance in court is important. It enables the devil to build on the experience gained from the principal devilmaster, and from the Faculty skills training courses.

15. In consultations:

- a. The devil should read the papers before the consultation so that the most can be gained from the experience.
- b. The devil should be informed in advance what is expected from him or her in consultation. It is not normally expected that a devil should contribute during the consultation. If the devilmaster wishes the devil to contribute during the consultation that should be made clear in advance of the consultation. Any questions arising during the consultation relating to devilling should be discussed after the conclusion of the consultation.

16. The devil should attend enough consultations to enable the devil to conduct a consultation proficiently.

17. The devil should have contact with other members of Faculty to see how they conduct themselves in public and in court.

18. All work done by the devil should be discussed and reviewed. All consultations and court work should be discussed with the devil. The devilmaster should monitor all work done by the devil so as to be able to give such guidance and feedback as necessary.

19. The Devilmaster will consult formally with the Director of Education after both the Foundation Course and the February assessment diet. This consultation should allow the progress of the devil to be monitored and any specific areas requiring attention to be highlighted and addressed.

20. Devilmasters should make themselves available at the request of the Director of Training and Education to consult about the progress of their devil or issues arising out of devilling.



### **Appendix 3: Monitoring progress during devilling and obtaining feedback**

Although you will have had experience of feedback on your drafting and advocacy exercises during the Faculty Training and Education Programme, it is important to ask your devilmaster for feedback in relation to the live cases and the live circumstances you have been working on. Individual devilmasters will vary in the nature and extent of the feedback that they give on paperwork, but you should always feel able to ask for more detailed comments on your work if you are not sure where you have gone wrong. It is equally important for devilmasters to identify what you are doing well, so that you can build on and develop your strengths.

It is a good idea to ask your devilmaster for a review or appraisal at regular intervals during your period of devilling with him or her. If there are any difficulties that you are experiencing, or areas in which you need to improve, this will give you the opportunity to address them during the remaining period. The review can also be used to monitor your progress, help you complete your checklist and to identify any gaps in your training.

## **Appendix 4: Provisional Training Calendar 2011 / 2012**

3 October - 5 November 2011	Foundation Course
30 January - 10 February 2012	February Skills Course
30 April - 11 May 2012	May Skills Course

There will also be an assessment diet under the Scheme for Assessment of Devils for all devils 13 - 18 February 2012, and a further diet 14 - 18 May 2012 for those devils found to be working towards competence in any of the four key skills.

## **Appendix 5: Scheme for the Assessment of Devils**

### **1. Introduction**

The Scheme for Assessment of Devils requires a devil to demonstrate competence in advocacy in each of four key skills:

- (a) examination of a witness,
- (b) legal submissions (for example a debate or motion),
- (c) drafting a writ (for example, a summons or petition) and
- (d) drafting an opinion.

By 'competence' is meant the standard to be expected of the reasonably competent newly admitted Advocate. It is assessed by reference to the assessment criteria for each key skill set out below.

The Scheme is not a test of skills taught on the Foundation Course. While skills acquired from the Course may assist devils to successfully demonstrate competence under the Scheme, they should also expect to have to draw on skills learnt through working with their Devilmasters, or otherwise.

### **2. The Assessment Procedure**

A Faculty committee, the Board of Assessors, is the body charged by the Dean with oversight of the Scheme for Assessment of Devils. The Director of Training and Education is a member of the Board *ex officio*. The Director does not participate in any decisions which the Board may take about the competency or otherwise of the devils. The actual assessments are carried out by senior members of Faculty (the Assessors) who report to the Board. In the light of these assessments the Board must advise the Clerk of Faculty whether each devil is competent or not competent in terms of the Scheme.

Operation of the Scheme is supervised by an external advisor who is a member of the judiciary. The role of the external advisor is to ensure that assessment is carried out fairly

and to the correct standard, and does not (except as provided for in paragraph 10.6 below) include assessment of a particular devil's competence.

All devils are assessed at a diet in February of each year. If a devil is assessed at that diet as "working towards competence" in any of the four key skills, he or she will require to be reassessed in relation to that skill (or skills) at a further diet in May.

Any devil who is required to attend for re-assessment at the May diet will not be permitted to call at the June calling, if they would otherwise have been able to do so. Devils assessed as competent at the May diet will (as far as the Assessment Scheme is concerned) be permitted to call in July of that year.

If a devil, on reassessment at the May diet, is graded by the Assessors as not competent in any of the four key skills, prima facie the Board would anticipate reporting to the Clerk of Faculty that that devil has been found not competent in terms of the Scheme. The Board operates a review procedure, however, a copy of which is set out below.

If, following this procedure, the Board is of the view that any devil is not competent overall, or in other words, that in any of the four skills areas he or she has not attained the standard to be expected of the reasonably competent newly called Advocate, then it will make a report to the Clerk of Faculty to this effect. Please refer to paragraph 1.7.1.

### 3. The Assessment Diets

Assessment is conducted over the course of a week. A detailed timetable is distributed beforehand, but in general terms the format for the February assessment diet is likely to be as follows:

- On Monday morning all devils attend for assessment in the exercise of 'Drafting a Writ'. A case bundle containing all relevant materials will be issued on the day. Devils will draft the writ under exam conditions. A three hour period is allowed for this exercise. The case bundle for the writ drafting exercise comprises a fictional letter of instructions to draft a writ and, if appropriate, any supporting papers.

- On Tuesday all devils attend for the exercise of 'Drafting an Opinion'. A case bundle containing all relevant materials will be issued on the day. Devils will draft the opinion under exam conditions. Devils will have from 9.30am to 5.30pm to complete the exercise. The case bundle for the opinion drafting exercises comprises a fictional memorial to counsel, and devils must draft the opinion which they would produce in response.
- On Wednesday case papers for the exercises of 'Examination of a Witness', and 'Legal Submissions' will be issued. Wednesday is a preparation day.
- On Thursday and Friday devils are assessed in the 'Examination of a Witness' and 'Legal Submissions' exercises. Both are in the form of role playing exercises. In each exercise the devil has twenty minutes to demonstrate competence in the relevant skill by reference to the assessment criteria.
- In the 'Examination of a Witness' exercise, the devil will be asked to complete a pro forma sheet setting out his/her objectives for the examination. The pro forma sheet will be available as part of the case papers, and should be submitted to the Assessor at the start of the devil's assessment exercise.

The precise format for the May assessment diet will vary depending on how many devils require to present for reassessment, and in relation to which skills exercises.

#### 4. The Oral Exercises

The oral assessment exercises are conducted as follows:

- All assessment performances are video-recorded.
- The Assessor plays the part of the judge, but also acts as timekeeper.
- Other than to make appropriate 'judicial interventions' in the course of the exercise the Assessor does not provide the sort of 'feedback' on performance which devils

may have become used to in the skills workshops on the Foundation Course, and he/she should not be asked to do so.

- The twenty minutes are for conducting the opening part of the examination or legal submission. It should not be assumed that this period of time will necessarily be sufficient to complete the examination or submission (although it may be). However it should be sufficient to demonstrate all the assessment criteria for the exercise.
- Any witnesses are played by actors.
- In the legal submissions exercise devils may refer to the Record or other documents provided and to any authorities which may be specified in the papers, but not to any other documents or authorities. The Assessor will have copies of these, but devils should not assume, in his/her role as judge, that he/she has read them or is familiar with them.

## 5. Written Exercises

The written assessment exercises are conducted as follows:

- A professional invigilator will be present.
- Devils are expected to work in silence and without conferring or communicating with - or disturbing - the other devils. In particular any mobile phones, pagers etc. must be turned off throughout.
- Devils may bring with them and use a laptop computer if they wish, and a printer will be made available for use. Technical assistance regarding the compatibility of the printer with laptops will be made available. However if for any technical reason unconnected with the printer devils are unable to print out from their laptop, they will have to handwrite their exercise. Devils will not be permitted to take laptops out of the assessment room in order to print out from another printer.

- Devils' names should not appear anywhere on the written exercises themselves. When devils have finished their work they should put it in the envelope provided. They should write their name on the front of the envelope, seal it, and hand it to the invigilator.
- At the end of the period allocated to each exercise (or when a devil has finished the exercise, if earlier) he or she should hand the envelope containing their work to the invigilator. If a devil chooses to leave before the expiry of the time allocated to the exercise he/she will not be permitted to return.
- Devils may not however leave the assessment room in either the first 15 minutes or the final 15 minutes of the hours allotted.
- During the Opinion writing exercise, devils will be allowed 45 minutes for lunch which must be taken in the Mackenzie Building in the allocated lunch room. Devils may not discuss the exercise during lunch either amongst themselves or with others.
- The invigilator will be asked to report to the Board of Assessors regarding any failure by any devil to observe the above conditions.

## 6. Professional Practice and Ethics

A newly admitted Advocate is expected to be familiar with the duties imposed by the 'Guide to the Professional Conduct of Advocates'. Within one or more of the assessment exercises there may be an element designed to test awareness of an aspect of professional conduct. The professional conduct issue will not be identified as such within the exercise and devils will not be told which assessment exercise(s) contain such an issue. Devils should also be aware that professional conduct issues may arise in any of the exercises, whether or not the exercises have been deliberately designed to test such an issue. The manner in which the issue is dealt with by the devil may be taken into account by the Assessor of the exercise in assessing competence.

## 7. Plagiarism and Collusion

Plagiarism is the act of passing off someone else's work as one's own or the act of assisting someone else to commit plagiarism. Collusion is the act of collaborating with someone else on an assessment exercise which is intended to be wholly one's own work.

All the exercises under the Assessment Scheme are to be each devil's own work. Once case papers for an assessment exercise have been issued devils may not discuss them amongst themselves, with their devilmasters or with any other person. They must not perform practice exercises or discuss draft submissions or possible lines of examination with others. Devils may not share case papers. Devils may not share draft or final written answers.

Any devil found to have engaged in plagiarism or collusion in connection with any of the assessment exercises can expect to receive an automatic grading of working towards competence or not competent, depending on the diet of assessment, for that exercise. In addition disciplinary action may be taken against any devil (see paragraph 1.2) or Member of Faculty involved in plagiarism and collusion.

## 8. Required Standard for Admission

Responsibility for determining whether an applicant should be admitted to practice has been delegated by the Court to the Faculty. In exercising this responsibility, the Faculty has regard to the public interest in ensuring that applicants who have not demonstrated competence in written and oral advocacy are not admitted to practice. By "competence" is meant the standard to be expected of the reasonably competent newly admitted advocate. In assessing whether a devil has achieved this standard, the Board of Assessors and its individual Assessors will have particular regard to a test of whether, in view of the level of competence demonstrated, it is in the public interest that he or she should not be admitted to practise as a member of Faculty.

In order to assist Assessors in deciding whether the required standard of competence has been achieved, a set of detailed assessment criteria have been devised. Some of the assessment criteria are more important than others, and failure to achieve a satisfactory



standard in relation to one or more criteria does not necessarily mean that the required general standard of competence has not been achieved. The assessors are looking for an overall display of competence in: purpose, analysis, structure, presentation, techniques in oral and written advocacy. You should view your performances as being conducted in real-life professional conditions.

In each exercise, the assessors will mark according to the following standards, bearing in mind what would be expected of a newly admitted advocate:

- competent (C)
- working towards competence (W)

You will be expected to show competence (C) overall in each of the four exercises. If you do not do so, you will be assessed again in May on those exercises where you were assessed as W (Working Towards Competence).

In May the standards for each exercise will be Competent (C) or Not Competent (NC). Again the standard is what would be expected of a newly admitted advocate.

## 9. Assessment Criteria

### Introduction

Each of the four advocacy skills will be assessed by the Assessor by reference to the criteria outlined in the following pages. For each of these criteria the Assessor will award a mark between 0 and 5, as follows:

- |   |   |  |
|---|---|--|
| 0 | = | criteria not demonstrated (when it could and should have been) |
| 1 | = | very poor  |
| 2 | = | poor   |
| 3 | = | competent  |
| 4 | = | good   |
| 5 | = | excellent  |

Where a particular criterion has not been demonstrated, because it was not possible or appropriate to do so, the assessor will mark that criterion as “N/A”.

The marks awarded are not in themselves determinative of the grade which the Assessor will award. The Assessor will give brief written reasons for his or her decision.

#### Following the Assessment Diet

The Clerk to the Board of Assessors will write to all devils towards the end of the week following the assessment diet with the results.

If a devil is graded as “working towards competence” in relation to any of the four skills exercises of the February diet of assessment he/she will automatically be sent the Assessor’s written summary detailing why that grade was given. Copies of the Assessor’s written summaries for any other exercises, or of the DVDs of the oral exercises, will be made available on request. Arrangements will be made on request to allow devils (and their devilmaster(s)) access to the written exercises.

A copy of the results notification letter to a devil will be sent to his or her principal Devilmaster, and also to the Director of Education and Training.

In the event that a devil receives one or more “working towards competence” grades, subject to the review procedure outlined below, he/she will be required to attend for reassessment at the May diet. The devil will be assessed at that diet on the skill exercise or exercises where he/she was graded as “working towards competence”.

In the event that a devil receives one or more not competent grades on reassessment at the May diet, the Board will operate the review procedure and thereafter report to the Clerk of Faculty.

#### 10. The Review Procedure

##### February Diet

- 10.1 Any devil assessed as “working towards competence” in any of the four skills exercises at the February diet will be entitled to request the Board to carry out a review of that decision. Any devil wishing the Board to carry out such a review should notify the Board within 7 days of the letter notifying the outcome of the assessment results. The devil (and his devilmaster(s)) may make written submissions to the Board within 14 days of the letter notifying the outcome of the assessment results.
- 10.2 The review will be carried out by a sub-committee of the Board comprising three members of the Board. The sub-committee will report their decision to the Board. Where the sub-committee considers that the devil ought to be assessed as competent in the skill exercise concerned, the Clerk will advise the devil that he/she is not required to attend for reassessment at the May diet in respect of that exercise. Where the sub-committee considers that the assessment of “Working towards competence” should stand, the Clerk will advise the devil that it is necessary for him/her to attend for re-assessment at the May diet.

#### May Diet - Preliminary Review

- 10.3 Where the Board is advised by the Assessors, following the May assessment diet, that a devil is Not Competent in any of the four key skills, it will carry out a preliminary review of those assessments in which the devil has been found to be Not Competent. If in the light of that review the Board is clearly satisfied (notwithstanding the Assessors’ grading) that it should report to the Dean that the devil is Competent in terms of the Scheme, it will duly do so, and will notify the devil accordingly.
- 10.4 If the Board is not so satisfied, however, it will advise the devil concerned. In these circumstances the devil is entitled to a full review by the Board in accordance with the following procedure.

#### Full Review

- 10.5 A devil who wishes a full review of assessment by the Board should notify the Clerk to the Assessors to this effect within 7 days of the date of the letter notifying him of the outcome of the preliminary review.
- 10.6 On receipt of such a request the Clerk will provide the devil with copies of (i) the Assessors' Assessment Sheets for his written and oral exercises; (ii) the work submitted by him in respect of the written exercises; and (iii) the DVD recordings of the oral exercises carried out by him. The Clerk will provide the external advisor with the same materials and will invite the external advisor to submit his observations on the devil's competence for consideration by the Board.
- 10.7 Within 14 days of the date of the letter from the Clerk enclosing these materials, the devil may make written representations to the Board in relation to the review. Any request for an extension of this time limit should be made in writing within this period to the Clerk to the Assessors, and should include reasons for the request.
- 10.8 The Board may in its discretion grant or refuse such a request for extension of time. In the event that the Board refuses the request, it will proceed to full review at the expiry of the above mentioned 14 day time limit notwithstanding the absence of written representations from the devil. In the event that the Board accedes to the request, it may set a further time limit for receipt of such representations or direct such other procedure as it considers necessary.
- 10.9 Should a devil wish to submit written representations from one or more of his or her devilmasters, or from any external assessor, these should be included with the representations from the devil. Oral representations to the Board will not be permitted.
- 10.10 Within seven days of receipt of the devil's written representations or on the expiry of the time limit for receipt of same, whichever is the sooner, the Board of Assessors will meet and carry out a full review of the assessment of the devil.
- 10.11 In carrying out this review the Board will have regard to the Assessors' reports, the DVD recordings of the devil's oral performance, the written work submitted for assessment, the

external advisor's written observations, and any written representations received from the devil for the purposes of the review. This will include the reports, DVDs and written work in respect of both the February and May diets.

10.12 The issue for the Board will be, having regard to these materials, whether it is satisfied that the devil should be reported to the Dean as being Competent or Not Competent overall in terms of the Assessment Scheme.

10.13 The Board will not be bound in its assessment of this issue by any grading of any Assessor in respect of the devil at either diet. Accordingly the devil should not assume, in framing any written representations which he may wish to make to the Board, that he need not address those exercises where he was graded as Competent by the Assessor.

10.14 Within seven days of meeting to review the devil's assessment, the Board will issue a written decision to the devil, and report to the Dean accordingly. This decision by the Board will be final.

## 11. Queries

All queries relating to the terms or operation of the Assessment Scheme should be directed to the Clerk to the Board of Assessors, care of the Faculty Training & Education Manager.

## Scheme for Assessment Criteria

### Opinion Writing

Overall, the candidate should demonstrate an ability to analyse the facts presented in their legal context and to answer the questions put to him or her in a manner which provides the client with clear and practical legal advice.

1. Layout. The layout of the Opinion would be expected to conform generally to Faculty practice, although it should be recognised that there is no single “correct” style. It should, however include an appropriate heading and footing “e.g. “The Opinion of...”, page numbers and a backing.
2. Structure. Reference should be made to the letter of instruction and/or memorial and it should be clear how the Opinion responds to the questions to which answers are sought. The Opinion should be of a length appropriate to the number and complexity of the questions asked. For the sake of clarity it may be appropriate to include chapter headings and sub-headings, paragraph numbers etc.
3. Analysis of issues. The candidate should demonstrate command of the factual background and an understanding of which facts are relevant and which are not, with appropriate reference to documents, statements provided, etc. The Opinion should identify any gaps in factual information and advise accordingly. Legal propositions should be stated clearly and related to the factual context.
4. Use of appropriate language. The Opinion should be expressed in clear, simple and concise words, sentences and phrases and should be comprehensible to a client who does not have a legal training. It should demonstrate command of written English and avoid unnecessary repetition or legalese.
5. Reference to authorities. Relevant authorities should be referred to and correctly cited. Any quotations should not be unduly lengthy. The candidate should demonstrate understanding of the ratio of case cited; the weight of its authority; its relevance to the issues on which the

Opinion is sought; why it assists/detracts from the argument being advanced in the Opinion; and how, where necessary, it can be distinguished or criticised.

6. Conclusions. The Opinion should contain properly reasoned conclusions which fully, clearly and concisely answer the questions on which the Opinion is sought, avoiding equivocation and expressing, where appropriate, a view on the strength of the conclusion reached. It should address any relevant issues not raised by letter of instruction/Memorial (e.g. in response to a question “Does Counsel have anything to add?”).

## Writ Drafting

Overall, the candidate should demonstrate an ability to plead a relevant and sufficiently specific case in fact and law, using an appropriate structure of writ.

1. Layout. The writ should be drafted in the correct court style, conforming to any relevant statutory form or rule of court, observing conventions without unnecessary formality, with numbered paragraphs of appropriate length, sub-headings (e.g. condescendence or statement of facts), and backing.
2. Formalities. The instance should correctly identify and design the parties (e.g. using “assisted person” where appropriate). The writ should include any necessary averments of jurisdiction, title etc.
3. Remedy sought. In the crave/conclusions or prayer (or otherwise as the case requires), the candidate should identify and draft appropriate remedies sought, including any interim and protective remedies, protective diligence, interest etc.
4. Factual averments. Averments should plead facts not law and should meet the tests of relevancy and specification. They should be supported by factual material available, selecting relevant facts for averment and avoiding irrelevant facts. They should consist of clear, simple and concise words, sentences and phrases appropriate to legal drafting, demonstrating command of written English appropriate to writ drafting by counsel. Averments should avoid unnecessary repetition or legalese. Documents should be referred to accurately and in a manner which demonstrates awareness of their significance to the action, and should, if appropriate, be incorporated *brevitatis causa*.
5. Pleas in law (or equivalent). The legal basis for the writ should be identified and included in an appropriate manner. Where the writ includes pleas in law, these should be in proper form and consistent with the crave/conclusions and factual averments.
6. Accompanying Note. It will often be unnecessary to provide a Note along with the writ. However, if necessary (e.g. because the instructions to counsel require it), the writ should be



accompanied by a Note in appropriate form and containing appropriate advice on matters such as any need for further information.

## Examination of a witness

Overall the candidate should demonstrate an analysis that is open to a competent practitioner. The nature, sequence and style of questioning should be such as to make the evidence reasonably comprehensible to the finder of fact.

1. Problem Analysis. The candidate should demonstrate an understanding of the issues which are in dispute, and the manner in which the witness will assist in resolving them. The candidate should set out his case analysis, briefly, in writing. The assessor should be alive to any mismatch between the declared aims and what the candidate actually seeks to do in oral questioning. The assessor should be alive to the possibility that the candidate has a tenable analysis that the assessor himself would not, personally, favour. If the candidate's analysis of the problem is not a tenable one, or he fails to elicit evidence essential to the success of his client's case, those may be indications that the candidate is not ready to be admitted to practise.
2. Use of appropriate questions. For example, the candidate should use open questions and avoid leading questions in examination in chief, use closed questions where appropriate. The candidate should normally seek to elicit one fact per question. Questions should be appropriately focussed to direct the witness to the issue that interests the candidate. If the candidate consistently asks very unfocussed questions which lead to the witness giving evidence about irrelevant matters which are not those that the candidate wishes to pursue, that may be an indication that the candidate is not yet competent. However, if a candidate follows up a very unfocussed question and answer by returning to the matters raised in a series of comprehensible and focussed questions, credit should be given for that.
3. Logical Question Order. Questions should link in logical sequence so as to elicit the witness's account in a clear and comprehensible manner. Use of chapters, headings and transitions to guide witness through examination, etc. What is important is that the questions are in a comprehensible and logical order, even if that is not the order that the assessor would personally have chosen to adopt.

4. Appropriate Use of Productions. Introduction of productions into examination at appropriate time, putting productions before witness in appropriate fashion, leading evidence in relation to the productions which is relevant to the dispute before the court.
5. Demonstration of competent delivery. Audibility, appropriate pace for the judge and for the witness, appropriate response to what the judge and the witness may say. Normally it will not be appropriate to find a candidate W or N on delivery alone unless the delivery is such as to cause real difficulties for the assessor in comprehending the evidence.

## Legal Submissions

Overall the candidate should demonstrate an analysis that is open to a competent practitioner. The nature, sequence and style of submission should be such as to make the intended legal issue reasonably comprehensible to the decision maker.

1. Case analysis. The candidate should demonstrate, in the course of the submission, that he or she has identified and analysed the legal and factual issues in dispute and has a clear vision of the outcome sought from the hearing.
2. Introduction and structure. The candidate should identify the case, the party for whom he/she appears, the nature of the hearing, the motion being advanced and the outcome sought, under reference, where appropriate, to any pleas in law which are to be sustained or repelled. He/she should set out an appropriate framework for the submission, e.g. using chapter headings, sub headings, propositions, transitions etc.
3. Development of submission. The submission should be presented in accordance with the structure which has been set out. Legal propositions should be clearly and specifically stated. At the close of the submission there should be an effective summary.
4. Use of documents. Appropriate use should be made of the pleadings (e.g. directing judge to critical averments in the condescendence), notes of argument and any other essential documents, such as passages from productions incorporated breviter causa.
5. Use of authorities. Authorities should be correctly cited, with reference being made to relevant material in the headnote/rubric, the arguments and the court's reasoning. The candidate should demonstrate understanding of the ratio of any case cited. It is particularly important that the point taken from the authority is clearly identified and explained for the purpose of demonstrating how it supports the argument being advanced (or, in the case of adverse authority, why it does not defeat it).
6. Presentation. The submission should be made in clear, simple and concise words, sentences and phrases appropriate to the courtroom setting. It should demonstrate command of

spoken English and avoid unnecessary repetition or legalese. Judicial interventions should be dealt with courteously and in a manner which demonstrates an understanding of the point being made or the question being put. The submission should be made in a persuasive manner with an appropriate degree of confidence and conviction.

7. Delivery. The submission should be clearly audible (but not deafening), delivered at an appropriate pace with pauses and, if possible, variety of tone and modulation. Distracting verbal tics and fillers should be avoided but would not necessarily of themselves demonstrate a lack of competence. Eye contact with the judge should be maintained and excessive reading from notes should be avoided. The candidate should be aware of non-verbal aspects such as posture and stance, facial expression, use of gestures and avoidance of distracting mannerisms.

**Appendix 6: Devil’s Checklist**

**A     Appearing in Court**

1     How to prepare for and conduct a:

- (a)   Proof;
- (b)   criminal trial;
- (c)   civil jury trial


2     How to prepare for and conduct a:

- (a)   procedure roll debate or similar hearing;
- (b)   debate in a criminal case or similar hearing;


3     How to prepare for and conduct a Preliminary Hearing in the High Court.

--

4     Commercial Actions:

- (a)   preliminary hearing
- (b)   procedural hearing


5     How to prepare for and conduct:

- (a)   appeal;
- (b)   reclaiming motion;
- (d)   procedural hearing in civil appellate proceedings;
- (e)   criminal appeal against conviction;
- (f)   criminal appeal against sentence
- (g)   bail appeal;


(h) procedural hearing in criminal appellate proceedings.

☐

6 The responsibilities of junior counsel where senior counsel has also been instructed in any of the above.

☐

7 The responsibilities of a Crown junior

☐

8 How to prepare for and conduct a commission as:

(a) Commissioner

☐

(b) Counsel

☐

9 Motion roll

☐

10 By order roll

☐

11 Preliminary diet in criminal cases.

☐

**B**

## Preparation and Paper Work

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|--|--|

- 11

- [illegible]

- (a) minute of tender (and acceptances and withdrawals thereof);
- (b) minute for decree;
- (c) minute of abandonment;
- (d) joint minute (including those agreeing evidence or intimating settlement to the court);
- (e) minute of sist;
- (f) note of argument;
- (g) written submissions;
- (h) application for sanction of counsel or expert in legally aided cases.



6 Various types of incidental steps in criminal procedure including:

- (a) notices of special defence;
- (b) devolution issue;
- (c) application under s275 of the Criminal Procedure (Scotland) Act
- (d) petitions for recovery of documents
- (e) written record
- (f) revision of agreed narrative
- (g) joint minute
- (h) application for sanction for counsel or expert in Legally Aided case


7 Issues and Counter Issues

--

8 Petitions, for example:

- (a) Judicial Review;
- (b) Interdict;
- (c) Judicial Factory
- (d) Insolvency


9 Notes on the Line of Evidence

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10 Notes on Quantum

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11 Notes on Liability

☐

12 Notes on Prospects of Success:

(a) of action;

☐

(b) civil appeal;

☐

(c) criminal appeal.

☐

13 Specification of Documents

☐

14 Opinions

☐

15 Grounds of Appeal:

(a) civil;

☐

(b) Criminal

☐

16 Sheriff Court Pleadings

☐

**C      General**

1      Consulting with Clients

☐

2      Negotiation

☐

3      The Guide to Professional Conduct of Advocates

☐

4      Awareness and knowledge of Parliament House and Supreme Court:

(a)    Awareness of Faculty traditions;

☐

(b)    Familiarity with the Supreme Courts generally;

☐

(c)    Knowledge of the workings of the IT Department;

☐

(d)    Knowledge of the Library;

☐

(e)    Knowledge of the workings of Faculty Services Limited including  
knowledge of the fee rendering system and practices and the Scottish  
Legal Aid Board requirements;

☐

(f)    Knowledge of the work of the advocates' clerks

☐

5      General awareness of other areas of practice:

(a)    Specialist family areas, acting as a curator ad litem, children's  
hearings;

☐

(b)    Tribunals;

☐

(c)    Court reports;

☐

(d)    Arbitration, mediation, alternative dispute resolution;

☐

(e) Other, please specify:

☐

## Appendix 7: Devilmasters' Report

## Interim Devilmasters' Report

**Name of Devil:-[**

Please indicate by marking with an X whether the devil has had experience of the areas of work listed.

The devil should have conducted the work either with you, as his principal devilmaster or, to your knowledge, with the criminal devilmaster or a subsidiary devilmaster.

**A Appearing in Court**

- ## 1 How to prepare for and conduct a:

- (a) Proof;
- (b) criminal trial;
- (c) civil jury trial.


- ## 2 How to prepare for and conduct a:

- (a) procedure roll debate or similar hearing;
- (b) debate in a criminal case or similar hearing.


- 3 How to prepare for and conduct a Preliminary Hearing in the High Court.

11

- #### 4 Commercial Actions:

- (a) preliminary hearing;
- (b) procedural hearing.


5	How to prepare for and conduct an:	
(a)	appeal;	
(b)	reclaiming motion;	
(d)	procedural hearing in civil appellate proceedings;	
(e)	criminal appeal against conviction;	
(f)	criminal appeal against sentence;	
(g)	bail appeal;	
(h)	procedural hearing in criminal appellate proceedings.	
6	The responsibilities of junior counsel where senior counsel has also been instructed in any of the above.	
7	The responsibilities of a Crown junior	
8	How to prepare for and conduct a commission as:	
(a)	Commissioner	
(b)	Counsel	
9	Motion roll	
10	By order roll	
11	Preliminary diet in criminal cases.	

**B      Preparation and Paper Work**

1      Summonses for:

- (a)      payment;
- (b)      breach of contract;
- (c)      divorce (including financial provision and orders relating to children);
- (d)      reparation (including road traffic accidents, accidents in the course of employment, and the contracting of industrial diseases);
- (e)      Declarator;
- (f)      Reduction.


2      Defences

--

3      Adjustments

--

4      Minute of Amendment and Answers

--

5      Incidental documents which occur in process, for example:

- (a)      minute of tender (and acceptances and withdrawals thereof);
- (b)      minute for decree;
- (c)      minute of abandonment;
- (d)      joint minute (including those agreeing evidence or intimating settlement to the court);
- (e)      minute of sist;
- (f)      note of argument;
- (g)      written submissions;
- (h)      application for sanction of counsel or expert in legally aided cases.


6      Various types of incidental steps in criminal procedure including:

- (a)      notices of special defence;
- (b)      devolution issue;


(c)	application under s275 of the Criminal Procedure (Scotland) Act	
(d)	petitions for recovery of documents	
(e)	written record	
(f)	revision of agreed narrative	
(g)	joint minute	
(h)	application for sanction for counsel or expert in legally aided case	
7	Issues and Counter Issues	
8	Petitions, for example:	
(a)	Judicial Review;	
(b)	Interdict;	
(c)	Judicial Factory;	
(d)	Insolvency.	
9	Note on the Line of Evidence	
10	Note on Quantum	
11	Note on Liability	
12	Note on Prospects of Success:	



(a) of action;

(b) civil appeal;

(c) criminal appeal.


13 Specification of Documents

--

14 Opinions

--

15 Grounds of Appeal:

(a) civil;

(a) grounds of appeal against conviction (criminal);

(b) grounds of appeal against sentence (criminal);

(c) appeal against refusal of leave to appeal at first sift (criminal);

(d) note of argument (Form 15.6) (criminal).


16 Sheriff Court Pleadings

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**C     General**

1     Consulting with Clients

☐

2     Negotiation

☐

3     The Guide to Professional Conduct of Advocates

☐

4     Awareness and knowledge of Parliament House and Supreme Court:

(a)   Awareness of Faculty traditions;

☐

(b)   Familiarity with the Supreme Courts generally;

☐

(c)   Knowledge of the workings of the IT Department;

☐

(d)   Knowledge of the Library;

☐

Knowledge of the workings of Faculty Services Limited including  
(e)   knowledge of the fee rendering system and practices and the Scottish  
Legal Aid Board requirements;

☐

(f)   Knowledge of the work of the advocates' clerks

☐

5     General awareness of other areas of practice:

(a)   Specialist family areas, acting as a curator ad litem, children's  
hearings;

☐

(b)   Tribunals;

☐

(c)   Court reports;

☐

(d)   Arbitration, mediation, alternative dispute resolution;

☐

(e) Other, please specify:

☐

**Comment**

Signed:

Printed:

Date:

Devilmasters’ Report

Name of Devil:-[ ]

Please indicate by marking with an X whether the devil has had experience of the areas of work listed.

The devil should have conducted the work either with you, as his principal devilmaster or, to your knowledge, with the criminal devilmaster or a subsidiary devilmaster.

A     Appearing in Court

1     How to prepare for and conduct a:

- (a)    Proof;
- (b)    criminal trial;
- (c)    civil jury trial.


2     How to prepare for and conduct a:

- (a)    procedure roll debate or similar hearing;
- (b)    debate in a criminal case or similar hearing.


3     How to prepare for and conduct a Preliminary Hearing in the High Court.

--

4     Commercial Actions:

- (a)    preliminary hearing;
- (b)    procedural hearing.


5     How to prepare for and conduct an:

- (a) appeal;
- (b) reclaiming motion;
- (d) procedural hearing in civil appellate proceedings;
- (e) criminal appeal against conviction;
- (f) criminal appeal against sentence;
- (g) bail appeal;
- (h) procedural hearing in criminal appellate proceedings.


6 The responsibilities of junior counsel where senior counsel has also been instructed in any of the above.

--

7 The responsibilities of a Crown junior

--

8 How to prepare for and conduct a commission as:

- (a) Commissioner
- (b) Counsel


9 Motion roll

--

10 By order roll

--

11 Preliminary diet in criminal cases.

--

**B      Preparation and Paper Work**

1      Summonses for:

- (a)      payment;
- (b)      breach of contract;
- (c)      divorce (including financial provision and orders relating to children);
- (d)      reparation (including road traffic accidents, accidents in the course of employment, and the contracting of industrial diseases);
- (e)      Declarator;
- (f)      Reduction.


2      Defences

--

3      Adjustments

--

4      Minute of Amendment and Answers

--

5      Incidental documents which occur in process, for example:

- (a)      minute of tender (and acceptances and withdrawals thereof);
- (b)      minute for decree;
- (c)      minute of abandonment;
- (d)      joint minute (including those agreeing evidence or intimating settlement to the court);
- (e)      minute of sist;
- (f)      note of argument;
- (g)      written submissions;
- (h)      application for sanction of counsel or expert in legally aided cases.


6      Various types of incidental steps in criminal procedure including:

- (a)      notices of special defence;
- (b)      devolution issue;


(c)	application under s275 of the Criminal Procedure (Scotland) Act	
(d)	petitions for recovery of documents	
(e)	written record	
(f)	revision of agreed narrative	
(g)	joint minute	
(h)	application for sanction for counsel or expert in legally aided case	
7	Issues and Counter Issues	
8	Petitions, for example:	
(a)	Judicial Review;	
(b)	Interdict;	
(c)	Judicial Factory;	
(d)	Insolvency.	
9	Note on the Line of Evidence	
10	Note on Quantum	
11	Note on Liability	
12	Note on Prospects of Success:	

(a) of action;

(b) civil appeal;

(c) criminal appeal.


13 Specification of Documents

--

14 Opinions

--

15 Grounds of Appeal:

(a) civil;

(a) grounds of appeal against conviction (criminal);

(b) grounds of appeal against sentence (criminal);

(c) appeal against refusal of leave to appeal at first sift (criminal);

(d) note of argument (Form 15.6) (criminal).


16 Sheriff Court Pleadings

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**C     General**

1     Consulting with Clients

☐

2     Negotiation

☐

3     The Guide to Professional Conduct of Advocates

☐

4     Awareness and knowledge of Parliament House and Supreme Court:

(a)   Awareness of Faculty traditions;

☐

(b)   Familiarity with the Supreme Courts generally;

☐

(c)   Knowledge of the workings of the IT Department;

☐

(d)   Knowledge of the Library;

☐

Knowledge of the workings of Faculty Services Limited including  
(e)   knowledge of the fee rendering system and practices and the Scottish  
Legal Aid Board requirements;

☐

(f)   Knowledge of the work of the advocates' clerks

☐

5     General awareness of other areas of practice:

(a)   Specialist family areas, acting as a curator ad litem, children's  
hearings;

☐

(b)   Tribunals;

☐

(c)   Court reports;

☐

(d)   Arbitration, mediation, alternative dispute resolution;

☐

(e) Other, please specify:

☐

**Certificate of Criminal Devilmaster**

[                    ] spent a period of [    ] weeks devilling with me during which time the following undernoted areas of practice were covered:

**A      Appearing in Court**

1      How to prepare for and conduct a:

(a)    criminal trial;

2      How to prepare for and conduct a:

(a)    debate in a criminal case or similar hearing;

3      How to prepare for and conduct a Preliminary Hearing in the High Court.

4      How to prepare for and conduct:

(a)    criminal appeal against conviction;

(b)    criminal appeal against sentence

(c)    bail appeal;

(d)    procedural hearing in criminal appellate proceedings.

5      The responsibilities of junior counsel where senior counsel has also been instructed in any of the above.

6      The responsibilities of a Crown junior

7      Preliminary diet in criminal cases.

**B      Preparation and Paper Work**

1      Various types of incidental steps in criminal procedure including:

- (a)    notices of special defence;
- (b)    devolution issue;
- (c)    application under s275 of the Criminal Procedure (Scotland) Act
- (d)    petitions for recovery of documents
- (e)    written record
- (f)    revision of agreed narrative
- (g)    joint minute
- (h)    application for sanction for counsel or expert in Legally Aided case


2      Notes on the Line of Evidence

--

3      Notes on Prospects of Success:

- (a)    criminal appeal.

--

4      Specification of Documents

--

5      Opinions

--

6      Criminal Appeal:

- (a)    grounds of appeal against conviction

--

- (b) grounds of appeal against sentence
- (c) appeal against refusal of leave to appeal at first sift
- (d) note of argument (Form 15.6)


**C     General**

- 1     Consulting with Clients
- 2     Negotiation
- 3     The Guide to Professional Conduct of Advocates

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**Comment**

Signed:

Printed:

Date:

## **Certificate of Subsidiary Devilmaster**

[ ] spent a period of [ ] weeks devilling with me during which time the following undernoted areas of practice were covered:

### **Comment**

Signed:

Printed:

Date:

## **Certificate of Principal Devilmaster**

I confirm that [ ] has displayed sufficient diligence, competence and trustworthiness during [his / her ] pupillage (including periods spent with the criminal devilmaster and any subsidiary devilmasters) to make [ him / her ] suitable to be admitted as a member of Faculty.

Nothing came to light during the period of devilling which would indicate to me that [ ] is not an appropriate person to be admitted to the Faculty.

### **Comment**

Signed:

Printed:

Date:

## **Appendix 8: Work Templates**

If you wish, the templates on the following pages can be used to keep records of the work that you undertake during devilling.

You might find them helpful in completing the devilling checklist - or you can buy or design your own diary.



**Court Work**

Date	
Location	
Nature of case	
Names of parties	
Party represented	
Brief Summary	
Time spent	

Additional Notes / Comments:

**Paperwork**

Date	
Nature of Work	
Name of Client	
Name of Solicitor	
Brief Summary	
Time spent	

Additional Notes/Comments:

**Consultation**

Date	
Nature of Work	
Name of Client	
Name of Solicitor	
Brief Summary	
Time spent	

Additional Notes/Comments:

**Other Work**

Date	
Nature of Work	
Name of Client	
Name of Solicitor	
Brief Summary	
Time spent	

Additional Notes/Comments:



## Appendix 9: IT Specification

The IT Department provides information and communications services to all members of Faculty. As a devil you are able to make use of the Information and Communication Technology services provided by the Faculty.

Faculty IT services to devils include:

- a) an account providing access to the Faculty IT network;
- b) an email account; and
- c) provision of an IT Service Desk.

Through the IT network you will be able to access the internet, the Faculty intranet and the Faculty's library databases and online resources. Additional IT services including an Electronic Diary and Electronic Fee Rendering become available after you call next year.

To make use of the Faculty's IT services from Parliament House you will require a laptop computer with an up-to-date operating system and wireless network capability. Outlined below is the recommended laptop specification to access the Faculty network. If you have any IT-related questions or require assistance please contact the IT Service Desk (phone 0131 260 5820 or email [servicedesk@advocates.org.uk](mailto:servicedesk@advocates.org.uk)).

Faculty mobile services to devils are the same as provided to Members of Faculty. The Faculty's mobile service provider is Vodafone. The Vodafone contract offers a range of mobile devices including Blackberry options. If you have any mobile-related questions or require assistance please contact the IT Service Desk (phone 0131 260 5820 or email [servicedesk@advocates.org.uk](mailto:servicedesk@advocates.org.uk)).

## **Laptop Requirements - Frequently asked questions**

### **1.1 What equipment specification is required to connect to the Faculty network?**

A laptop meeting the minimum specification published by the IT Department is required to join the Faculty network and receive support from the IT Service Desk. A copy of the currently recommended specification is included below and an up to date copy can be downloaded at any time from the Faculty intranet (see Service Desk documentation under the IT Service Catalogue area). In order to connect to the network the laptop must be able to connect to a wireless 802.11g network.

### **1.2 What equipment specification is recommended?**

The current recommended and minimum specification is published and regularly updated by the IT Department. Please note that it is subject to change. The current recommendation is as follows:

#### **Operating system:**

Microsoft Windows 7 (32 or 64 bit)

#### **Processor:**

Intel Core i3 (2.1GHz or above)

AMD Phenon II N950 (2.1GHz or above)

#### **Memory:**

2GB RAM (4Gb recommended for Windows 7 64 bit)

#### **Hard Disk Capacity:**

150GB (minimum)

#### **Wireless:**

Built-in wireless capability which complies with the 802.11g standard.

**External storage:**

Recommended: DVD +/- RW Drive (read/write CD&DVD)

**Security software :**

Internet security suite is recommended to protect against most forms of malware including viruses/spyware. Notable packages include :

Norton Internet Security 2011  
McAfee Internet Security

At the very minimum anti-virus software should be installed.

Norton Anti-Virus  
McAfee Anti-Virus Plus

Note : there are many free versions of Anti-Virus software however using your laptop for business may not comply with the license agreement of these products.

**Productivity software :**

MS Office 2010 Home & Business edition, which includes the following

- Microsoft Word (word processor)
- Microsoft Excel (spreadsheets)
- Microsoft Powerpoint (presentations)
- Microsoft Outlook (Email and diary)

As an alternative, individual copies of Microsoft Word and Microsoft Outlook can be purchased.

**1.3 I have a Mac, can I access IT Services?**

We currently support any Apple computer meeting our minimum requirements and will endeavour where possible to ensure that services are accessible to those using a Mac. We are however only able to guarantee compatibility with all Faculty systems for those using Windows PCs.